

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David J. Bayer :
: Art Unit: 7284
Serial No.: 10/820,492 :
: Examiner: Nathithithadha, Navin
Filed: April 8, 2004 :
: :
For: HANDHELD BREATH TESTER :
HOUSING AND MOUTHPIECE :

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Applicants acknowledge receipt of the Notice of Allowance and Fee(s) Due and the Notice of Allowability dated February 24, 2010.

Regarding the examiner's statement of reasons for allowance, applicant submits that a reason for allowance of claim 1 and the claims depending therefrom is that the cited prior art neither teaches nor suggests the combination of features recited in claim 1.

Claim 1 recites:

An alcohol breath testing device housing for a breath tester for use by an operator to test a subject, the housing comprising:

a base to be gripped by the operator and having a front edge and a back edge opposite said front edge;

a display disposed on the front edge of the base;

a mouthpiece interface receiving a removable mouthpiece, said mouthpiece interface being oriented with respect to said base such that when a mouthpiece is coupled thereto, the mouthpiece extends outward from said back edge, and said mouthpiece interface being oriented with respect to said base such that when the operator stands in front of the subject and the subject blows into the mouthpiece, said display is in the direct line of view of the operator and not in the direct line of view of the subject;

the mouthpiece interface comprising a generally U-shaped channel sized to receive the mouthpiece therein, the mouthpiece being configured to be pivotally coupled into the mouthpiece interface;

a manual sample button located on the back edge of said base opposite the display;
and

an alcohol sensor fluidly connected to the mouthpiece interface, the alcohol sensor being adapted to detect alcohol present in the subject from a breath sample obtained by the subject blowing into the mouthpiece.

Regarding the examiner's statement of reasons for allowance, applicant submits that a reason for allowance of claim 23 and the claims depending therefrom is that the cited prior art neither teaches nor suggests the combination of features recited in claim 23.

Claim 23 recites:

An alcohol breath tester housing assembly for a breath tester comprising:

a housing comprising a base, a display, and a mouthpiece interface, said base being adapted to be gripped by an operator during testing, said base having a front edge and a back edge opposite said front edge, the display disposed on the front edge of the base, said display being disposed on said housing to be in line with an operator's direct line of view while gripping said base;

a mouthpiece configured to be removably coupled to said mouthpiece interface, said mouthpiece comprising an elongate body comprising at least one substantially planar surface, an open end, and a closed end, the closed end and substantially planar surface of the mouthpiece being placed against the mouthpiece interface in a testing position;

said mouthpiece interface being oriented with respect to said base such that when the mouthpiece is coupled thereto, the mouthpiece extends outward from said back edge; and

an alcohol sensor in fluid communication with the mouthpiece and the mouthpiece interface, the alcohol sensor being adapted to detect alcohol present in a subject from a breath sample obtained by the subject blowing into the mouthpiece.

Regarding the examiner's statement of reasons for allowance, applicant submits that a reason for allowance of claim 36 and the claims depending therefrom is that the cited prior art neither teaches nor suggests the combination of features recited in claim 36.

Claim 36 recites:

An alcohol breath tester housing assembly for a breath tester comprising:

a housing comprising a base and a display, said base being configured to be gripped by an operator during testing, said base having a front edge and a back edge opposite said front edge, the display disposed on the front edge of the base, said display being oriented with respect to said housing to be in line with the operator's direct line of view while gripping said base and while the operator stands in front of a subject in a sideways stance;

a mouthpiece configured to be removably coupled to said housing and to extend obliquely from said housing, said mouthpiece being configured to be pivotally coupled to said housing;

said mouthpiece being oriented with respect to said base such that when the mouthpiece is coupled thereto, the mouthpiece extends outward from said back edge; and

an alcohol sensor in fluid communication with the mouthpiece, the alcohol sensor being adapted to detect alcohol present in the subject by the subject from a breath sample obtained by blowing into the mouthpiece.

Regarding the examiner's statement of reasons for allowance, applicant submits that a reason for allowance of claim 61 and the claims depending therefrom is that the cited prior art neither teaches nor suggests the combination of features recited in claim 61.

Claim 61 recites:

An alcohol breath testing device comprising:

a base to be gripped by either hand of an operator and having a front edge and an opposite back edge;

a display disposed on the front edge and configured for alignment with the operator's direct line of view while gripping the base during use of the breath testing device;

a removable mouthpiece extending outward from the back edge and away from the display, the mouthpiece including at least one port for channeling air blown into the mouthpiece by a subject into the breath testing device and a discard breath outlet oriented such that discard breath is not directed at the operator of the breath testing device during testing when the operator views the display;

a mouthpiece interface for receiving the removable mouthpiece, said mouthpiece being configured to pivotally couple with the mouthpiece interface, the mouthpiece interface and mouthpiece being oriented with respect to the base such that, when the operator holds the

base in either hand and stands in front of the subject, and the subject blows into the mouthpiece, the display is not in the direct line of view of the subject;

an alcohol sensor in fluid communication with the mouthpiece and mouthpiece interface, the alcohol sensor being adapted to detect alcohol present in the subject from a breath sample obtained by the subject blowing into the mouthpiece.

Respectfully submitted,

/Michael G. Munsell/
Michael G. Munsell
Registration No. 43,820
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070